



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA-HQ-OAR-2010-0895; FRL-9948-86-OAR]**

**[RIN 2060-AS90]**

**National Emission Standards for Hazardous Air Pollutants:  
Ferroalloys Production**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Reconsideration; proposed rule.

**SUMMARY:** On June 30, 2015, the Environmental Protection Agency (EPA) published the residual risk and technology review (RTR) final rule, establishing national emission standards for hazardous air pollutants (NESHAP) for the Ferroalloys Production source category. Subsequently, the EPA received two petitions for reconsideration of certain aspects of the final rule. The EPA is announcing reconsideration of and requesting public comment on three issues raised in the petitions for reconsideration, as detailed in the **SUPPLEMENTARY INFORMATION** section of this action. The three issues the EPA is reconsidering and seeking public comment on are the following: the polycyclic aromatic hydrocarbons (PAH) compliance testing frequency for furnaces that produce ferromanganese (FeMn); the use of the digital camera opacity technique (DCOT) for determining compliance with the shop building opacity standards; and the use of bag leak detection systems (BLDS) on positive

pressure baghouses. The EPA is seeking comment only on these three issues and will not respond to comments addressing other issues or other provisions of the final rule. The EPA is not proposing any changes to the NESHAP in this document.

**DATES:** Comments. Comments must be received on or before **[insert date 45 days after date of publication in the Federal Register]**.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by **[insert date 5 days after date of publication in the Federal Register]**, a public hearing will be held on **[insert date 15 days after date of publication in the Federal Register]**. If you are interested in attending the public hearing, contact Ms. Virginia Hunt at (919) 541-0832 or by email at [hunt.virginia@epa.gov](mailto:hunt.virginia@epa.gov) to verify that a hearing will be held. If the EPA holds a public hearing, the EPA will keep the record of the hearing open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-0895, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information

whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy information about CBI, or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2010-0895. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you submit an electronic comment through

<http://www.regulations.gov>, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2010-0895. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room

is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

Public Hearing. If requested by **[insert date 5 days after date of publication in the Federal Register]**, we will hold a public hearing on **[insert date 15 days after date of publication in the Federal Register]**, from 10:00 a.m. [Eastern Standard Time] to 5:00 p.m. [Eastern Standard Time] at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Park, NC 27711. Please contact Virginia Hunt of the Sector Policies and Programs Division via email at [hunt.virginia@epa.gov](mailto:hunt.virginia@epa.gov) or phone at (919) 541-0832 to request a hearing, register to speak at the hearing, or to inquire as to whether or not a hearing will be held. The last day to pre-register in advance to speak at the hearing will be **[insert date 12 days after date of publication in the Federal Register]**.

Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, we ask that you pre-register for the hearing, as we may not be able to arrange such accommodations without advance notice. The hearing will provide interested

parties the opportunity to present data, views, or arguments concerning the proposed rule reconsideration action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing is held at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering Federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses, and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building, and demonstrations will not be allowed on federal property for security reasons. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written

statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Again, a hearing will not be held on this rulemaking unless requested. A hearing needs to be requested by **[insert date 5 days after date of publication in the Federal Register]**.

**FOR FURTHER INFORMATION CONTACT:** For questions about this action, contact Phil Mulrine, Sector Policies and Programs Division (D243-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5289; fax number: (919) 541-3207; and email address: mulrine.phil@epa.gov. For information about the applicability of the NESHAP to a particular entity, contact Cary Secrest, Office of Enforcement and Compliance Assurance (2242A), U.S. Environmental Protection Agency, EPA WJC South Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564-8661; and email address: secrest.cary@epa.gov.

**SUPPLEMENTARY INFORMATION:** Organization of this Document. The

information presented in this preamble is organized as follows:

**I. General Information**

- A. Does this action apply to me?
- B. What action is the agency taking?
- C. What is the agency's authority for taking this action?
- D. What are the incremental cost impacts of this action?

**II. Background**

**III. Discussion of the Issues under Reconsideration**

- A. Quarterly PAH Testing for Furnaces Producing FeMn
- B. DCOT Opacity Compliance Demonstration
- C. BLDS on Positive Pressure Baghouses

**IV. Impacts of this Action**

- A. Economic Impacts
- B. Environmental Impacts

**V. Statutory and Executive Order Reviews**

- A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act (NTTAA)
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

**I. General Information**

A. Does this action apply to me?

Categories and entities potentially affected by this action are shown in Table 1 of this preamble.



**Table 1. NESHAP and Industrial Source Categories Affected  
By This Proposed Action**

NESHAP and Source Category	NAICS <sup>1</sup> Code
Ferroalloys Production	331112

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action.

Other types of entities not listed in the table could also be regulated. To determine whether your entity may be affected by this action, you should carefully examine the applicability criteria found in 40 CFR 63.1620 of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the agency taking?

In this action, in response to petitions for reconsideration from Eramet Marietta Inc. (Eramet) and Felman Production LLC (Felman), the EPA is granting reconsideration of and requesting comment on the following three provisions of the final rule: (1) the requirement to conduct PAH performance testing every 3 months for furnaces producing FeMn for the first year with the opportunity to reduce to annual testing after the

first year; (2) the requirement to demonstrate compliance with the shop building opacity standards using DCOT in accordance with American Society for Testing and Materials (ASTM) D7520-13; and (3) the requirement to monitor positive pressure baghouse emissions using BLDS. As described in detail in Section II of this preamble, one or both of the petitioners requested EPA reconsider these three provisions.

This action is limited to the specific three provisions identified previously. Another issue raised by Eramet in their petition concerned the method we used to calculate the PAH emission limits. The EPA is deferring any decisions regarding whether to grant or deny reconsideration of this issue, and we are not reopening comment at this time on this issue. We will determine whether to grant or deny reconsideration of the PAH emission calculation issue no later than when we take final action on the three provisions we are reopening in this action.

We will not respond to any comments addressing any other provisions not being reconsidered in the final Ferroalloys Production NESHAP. Furthermore, the EPA is not proposing any changes to the NESHAP in this action.

C. What is the agency's authority for taking this action?

The statutory authority for this action is provided by sections 112 and 307(d)(7)(B) of the Clean Air Act (CAA) as amended (42 U.S.C. 7412 and 7607(d)(7)(B)).

D. What are the incremental cost impacts of this action?

There are no changes to the estimated incremental cost impacts that were presented in the Ferroalloys Production RTR final rule published in the **Federal Register** on June 30, 2015, (80 FR 37366) in this action. These incremental impacts were described in detail in the Final Cost Impacts of Control Options Considered for the Ferroalloys Production NESHAP to Address Fugitive HAP Emissions (see EPA-HQ-OAR-2010-0895-0301) and the Economic Impact Analysis (EIA) for the Manganese Ferroalloys RTR Final Report (see EPA-HQ-OAR-2010-0895-0290).

**II. Background**

Section 112 of the Clean Air Act (CAA) establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary major sources. In the first stage, sections 112(d)(2) and (3) require EPA to promulgate national technology-based emission standards for these sources based on maximum achievable control technology (MACT). These standards are commonly called MACT standards. The EPA finalized the MACT standards for Ferroalloys Production on May 20, 1999 (64 FR 27450). In the second stage, section 112(f) of the CAA requires EPA to assess the risks to human health remaining after implementation of the MACT standards. In addition, section 112(d)(6) of the CAA requires EPA to review and revise these MACT standards, as necessary, taking into account developments

in practices, processes, and control technologies since EPA promulgated the original standards. The CAA requires EPA to conduct these reviews within 8 years of the publication of the final MACT standards. The EPA typically conducts the two reviews, commonly referred to as the risk and technology reviews (RTRs), concurrently, as we did with the Ferroalloys Production source category. The EPA completed the RTR for the Ferroalloys Production in 2015 and published a final RTR rule for the Ferroalloys Production source category in the **Federal Register** on June 30, 2015 (80 FR 37366), which included, among other things, the following:

- Revisions to the emission limits for particulate matter (PM) from stacks for the electric arc furnaces (EAF), metal oxygen refining (MOR) processes, and crushing and screening operations, to minimize PM emissions from these units;
- Emission limits for four previously unregulated hazardous air pollutants (HAP): formaldehyde, hydrogen chloride, mercury, and PAH;
- Requirements to capture process fugitive emissions using effective, enhanced local capture, and duct the captured emissions to control devices;
- An average opacity limit of 8 percent during a full furnace cycle, and a maximum opacity limit of 20 percent for the

average of any two consecutive 6-minute periods, to ensure effective capture and control of process fugitive emissions;

- A requirement to conduct opacity observations using the DCOT at least once per week for a full furnace cycle for each operating furnace and each MOR operation for at least 26 weeks. After 26 weeks, if all tests are compliant, facilities can decrease to monthly opacity observations;
- A requirement to use BLDS to monitor PM emissions from all furnace baghouses; and
- A requirement to conduct periodic performance testing to demonstrate compliance with the stack emission limits for the various HAP, including a requirement to conduct PAH performance testing every 3 months for furnaces producing FeMn for the first year with the opportunity to reduce to annual testing after the first year.

Following promulgation of the final rule, the EPA received two petitions for reconsideration of several provisions of the NESHAP pursuant to CAA section 307(d)(7)(B). The EPA received a petition dated August 25, 2015, from Eramet, and a petition dated August 28, 2015, from Felman. In the petition submitted by Eramet, the company requested that the EPA reconsider the following provisions: (1) the requirement to conduct PAH performance testing every 3 months for furnaces producing FeMn;

(2) the requirement to demonstrate compliance weekly with shop building opacity limits using the DCOT in accordance with ASTM D7520-13; and (3) the PAH emission limits for existing furnaces producing FeMn and silicomanganese (SiMn). In addition, the company requested a stay of 90 days from the effective date of the final amendments pending completion of the reconsideration proceeding. In the petition submitted by Felman, the company stated that they support and adopt the petition submitted by Eramet and requested reconsideration of the requirement to use BLDS to monitor emissions from positive pressure baghouses. Copies of the petitions are provided in the docket (see EPA-HQ-OAR-2010-0895).

On November 5, 2015, the EPA sent letters to the petitioners granting reconsideration of the PAH compliance testing frequency issue raised by Eramet and the use of BLDS on positive pressure baghouses raised by Felman. In those letters, the EPA said we were continuing to review the other issues and intend to take final action on those issues no later than the date we take final action on the PAH testing frequency and BLDS issues. The agency also stated in the letters that a **Federal Register** action would be issued initiating the reconsideration process for the issues on which the EPA is granting reconsideration, which is what we are doing here with publication of this action.

In addition to the two requirements mentioned previously (i.e., regarding PAH testing frequency for furnaces producing FeMn and the use of BLDSS to monitor PM emissions from positive pressure baghouses) for which the EPA granted reconsideration via letters, after further review and consideration, the EPA has also decided to grant reconsideration of the requirement to use DCOT in accordance with ASTM D75520-13 to demonstrate compliance with shop building opacity standards. However, for each of these three requirements, after further analyses, evaluation, and consideration, we continue to believe these requirements are appropriate. Therefore, in this action, we are not proposing any changes to these requirements. Instead, we are providing further discussion and explanation as to why we believe it is appropriate to maintain these requirements in the rule, providing additional technical information to support our decisions, and requesting comment on these three requirements for which the EPA is granting reconsideration. If a commenter disagrees with our assessment of these issues, we encourage the commenter to provide a detailed technical explanation as to why they disagree and provide supporting information. Furthermore, if a commenter recommends any changes to the three rule requirements addressed in this action, we encourage the commenter to describe the specific rule changes they recommend and an explanation as to why they recommend such changes.

### **III. Discussion of the Issues under Reconsideration**

#### A. Quarterly PAH Testing for Furnaces Producing FeMn

In the 2014 supplemental proposal, which was published in the **Federal Register** on October 6, 2014 (79 FR 60238), the EPA proposed an emission limit of 1.4 milligrams per dry standard cubic meter (mg/dscm) for PAHs from existing furnaces producing FeMn based on two emissions tests (with a total of six runs). The EPA based the limit on the only valid PAH data we had for FeMn producing furnaces during the development of the supplemental proposed rule. We received an additional test report in August 2014 (a few weeks before signature of the supplemental proposed rule) that included data from one additional emissions test (with three runs). However, we were not able to incorporate that additional data into our analyses for the supplemental proposal. As we explained in the supplemental proposal, we had not yet completed our technical review of those new data and we were not able to incorporate those new data into our analyses in time for the completion of the supplemental proposal. However, we did seek comments on that data.

After publication of the supplemental proposal, we received additional data during the comment period that included one additional emissions test for PAHs, with four runs.

In the development of the final rule, after we completed



our technical review of all the data, we incorporated the additional data into our analyses such that the PAH limit for furnaces producing FeMn was based on four emissions tests (with a total of 13 runs). As we explained in the final rule preamble, the additional data we received just before signature of the supplemental proposal and again during the comment period indicated PAH emissions from furnaces producing FeMn were much higher than indicated by the data we had prior to August 2014. For example, the PAH concentrations for furnaces producing FeMn in these additional test reports were over 12 times higher than in previous test reports submitted by Eramet (as shown in appendix A of the Revised MACT Floor Analysis for the Ferroalloys Production Source Category document, which is available in the docket).

To calculate the MACT floor emissions limit for the final rule, we incorporated all the data (13 runs) and applied our standard 99 percent upper prediction limit (UPL) methodology. Using the UPL methodology resulted in a MACT floor emissions limit of 12 mg/dscm, which was 9 times higher than the MACT floor limit of 1.4 mg/dscm we had proposed in 2014.

With regard to testing frequency, in the 2014 supplemental proposal, we proposed that compliance testing for PAHs from furnaces producing FeMn be conducted at least once every 5 years. However, as we explained in the final rule preamble, due to the large variation in PAH emissions from these furnaces during FeMn production, we required quarterly compliance testing for PAHs (i.e., at least one PAH compliance test every 3 months) for furnaces while producing FeMn in the final rule, with an opportunity for facilities to request decreased frequency of such compliance testing (e.g., to annual testing) from their permitting authority after the first year.

In their petition, Eramet stated that "without warning, in the final Ferroalloys NESHAP, EPA increased the compliance test frequency for PAH emissions from ferroalloys production by 20 times." Specifically, the petitioner asserted that in the 2014 supplemental proposal, the EPA proposed PAH compliance testing every 5 years, which the petitioners considered appropriate, and, therefore, they did not comment on the provision. For the 2015 final rule, the EPA increased the PAH compliance testing frequency to quarterly, which the petitioners believe is a surrogate for information collection and not an appropriate use of the rulemaking process. The petitioners also stated that the increased PAH testing frequency increases compliance costs (by about \$75,000 for the first year) and increases penalty risks.

After considering the petition from Eramet, the EPA is not proposing any changes to the testing frequency in this action. However, in consideration of the fact that the public lacked the opportunity to comment on the change in testing frequency, the EPA has granted reconsideration of this issue to provide an opportunity for public comment on the testing frequency. We are proposing no change to the quarterly testing for PAH for furnaces producing FeMn due to the high variability of the PAH test data and the fact that the new data were much higher than the previous data. The inclusion of these data increased the MACT emissions limit for PAHs (which was based on the 99 percent UPL) for furnaces producing FeMn in the 2015 final rule by about 9 times compared to the MACT limit proposed in the 2014 supplemental proposal. In contrast, the PAH concentrations for furnaces producing SiMn were only slightly higher than previous test data received from the facilities. Furthermore, we believe the quarterly testing, along with the collection of process information that a facility may choose to collect voluntarily, could provide data that would help facilities learn what factors or conditions are contributing to the quantity and variation of PAH emissions. For example, among other things, we believe the collection and analyses of information about the amounts and types of input materials, types of electrodes used, electrode consumption rates, furnace temperature, and other furnace,

process, or product information may help facilities understand what factors are associated with the higher emissions and could provide insight regarding how to limit these emissions. Furthermore, as we described in the preamble of the final rule (80 FR 37383), if a facility decides to apply for decreased frequency of compliance testing from their permit authority, this type of information (described previously) could be helpful input for such an application.

In addition, we believe initial quarterly PAH compliance testing will help ensure that the public is not exposed to high concentrations of PAH due to emissions from these facilities. By retaining frequent testing with the ability to reduce the frequency of testing with compliant results, the rule ensures adequate protection of the public while providing an additional incentive for the source to promptly achieve compliance with the new MACT emission limit.

While we are not proposing any changes to the testing frequency for PAHs from FeMn furnaces, we seek comment on whether the goals of gaining a further understanding of factors influencing emissions, incentivizing prompt compliance, and ensuring minimizing public exposures to PAH emissions can be achieved with a slightly different testing frequency such as semiannual testing for 2 years with an opportunity to reduce frequency thereafter to annual testing.

B. DCOT Opacity Compliance Demonstration

In the 2014 supplemental proposal), we proposed that facilities would need to take opacity readings for an entire furnace cycle once per week per furnace using Method 9 or DCOT to demonstrate compliance with the opacity limits. However, in the supplemental proposal, we also said we were seeking comments on the feasibility and practice associated with the use of automated opacity monitoring with ASTM D7520-13, using DCOT to assess the opacity of visible emissions from roof vents associated with the processes at each facility, and how this technology could potentially be included as part of the requirements in the NESHAP for ferroalloys production sources.

In the final rule, we explained that after considering public comments, we decided to require DCOT, rather than allow its use as an option, and maintained the same frequency as proposed for Method 9, at least for the first 26 weeks. Therefore, the final rule includes a requirement to conduct opacity observations using the DCOT at least once per week for a full furnace cycle for each operating furnace and each MOR operation for at least the first 26 weeks. After 26 weeks, if all tests are compliant, the final rule allows facilities to decrease to monthly opacity observations.

In their reconsideration petitions, the petitioners stated the EPA solicited comment on the use of DCOT for determining

opacity from the shop building in the 2014 supplemental proposal, but did not propose to require DCOT in accordance with ASTM D7520-13 as the sole method of demonstrating compliance with the opacity standard. In their supplemental proposal comments (see EPA-HQ-OAR-2010-0895-0269 and -0272), the petitioners stated that the EPA had provided insufficient description of what might be required to employ DCOT on the shop buildings, and argued that DCOT was an unproven substitute for EPA Method 9 measurements. They also commented that the open roof monitors in the shop building create variability in plume location and orientation, which they believed would make DCOT infeasible or too costly.

In their reconsideration petitions, the petitioners claimed that the referenced ASTM method expressly applies to stack openings of 7 feet in diameter or less, whereas the shop building open roof monitors at the facilities stretch along the top of the roofline and are hundreds of feet long. They also noted that only one vendor provides DCOT and that the vendor would be free to charge the facilities whatever prices they want.

After considering the petitions from Eramet and Felman, and after gathering, reviewing, and evaluating additional information, the EPA is not proposing any changes to the requirements for demonstrating compliance with the opacity

limits. The EPA continues to believe it is appropriate to require ferroalloys production facilities to conduct opacity observations using the DCOT at least once per week for a full furnace cycle for each operating furnace and each MOR operation for at least the first 26 weeks. However, we are seeking comments on this DCOT monitoring requirement and the additional information and analyses which are described in the following paragraphs.

First, we have gathered and reviewed additional information that shows that opacity readings using DCOT are statistically equivalent to EPA Method 9 opacity readings, including several studies from government agencies and other organizations,<sup>1,2</sup> which compare Method 9 to DCOT. Each of these studies determined that DCOT is statistically equivalent to EPA Method 9 when measuring nonzero visible emissions. We have also reviewed the results of Method 301 evaluations where DCOT was used to measure opacity of emissions from stacks greater than 7 feet in diameter and exiting along rooflines (see the Statistical Comparison of ASTM D7520 to EPA Reference Method 9 on Opacity from Stacks with Diameters Over 7 Feet, by Hicks, S., et. al., August 28, 2015,

---

<sup>1</sup> Air Force Research Laboratory, An Alternative To EPA Method 9 - Field Validation Of The Digital Opacity Compliance System (DOCS): Results From The One-Year Regulatory Study, August 2005. AFRL-ML-TY-TR-2006-4515.

<sup>2</sup> Electric Power Research Institute (EPRI), Digital Camera Opacity Technique: Field Test Evaluation Report, Technical Update, June 2014. 1023954.

which is available in the docket for this action). These Method 301 studies showed no statistical difference between the opacity measured using DCOT and EPA Method 9, regardless of the stack diameter. In addition, we have learned that ASTM International is currently revising the DCOT test method (ASTM D7520-13) to remove the provision limiting application to stacks with diameters of 7 feet or less. While DCOT has a record of accuracy comparable to Method 9, it also offers the distinct advantage of generating a permanent record of the observation. This will be advantageous to the facility, oversight authorities, and affected third parties (such as the community) if there is a dispute about the facility's emissions. Opacity measurement using DCOT offers measurements that are statistically as accurate as Method 9, creates a permanent record of opacity measurements, and presents a scientifically defensible approach for opacity determination.

Regarding the comment that there is only one vendor, we believe there will be an increase use of DCOT in the future and an increased market and therefore other vendors will begin offering these services. We believe that once other vendors learn that EPA is starting to require DCOT in various rules and other actions, that other vendors will become available, which will likely keep prices approximately the same, or possibly lower. We are not aware of any evidence that the vendor has



raised, or will raise, its prices due to the Ferroalloys Production final rule.

#### C. BLDS on Positive Pressure Baghouses

In the 2014 supplemental proposal, we proposed that furnace baghouses would be required to be equipped with BLDS. In response to the supplemental proposal, Felman commented that the existing positive pressure baghouses and the baghouse monitoring system at the Felman site constrain the kinds of monitoring and monitoring systems that Felman can use, and that BLDS had never been demonstrated on a positive-pressure baghouse. Felman requested that the EPA not require BLDS on their baghouses because they claimed this would effectively require Felman to replace its existing control system with a negative-pressure baghouse simply to meet the baghouse monitoring requirement. In response to this comment, we explained that the EPA has knowledge of BLDS being used on positive pressure baghouse systems, including those baghouses with large area roof emissions points. A change to a negative pressure baghouse would not be necessary. Manufacturers of BLDSs provide information on how best to deploy their instruments on the outlet of a positive pressure baghouse.

In their petition, Felman asserted that the EPA did not provide any information regarding the use of BLDS on positive pressure baghouses. The commenter stated that in the Response to

Comment document,<sup>3</sup> the EPA claimed that they had knowledge of BLDS being used on positive pressure baghouses and that the facility should check with manufacturers of BLDS for how best to comply. However, the petitioner stated that this knowledge is not included in the record, and the most current published EPA technical guidance on this topic stated that BLDS is not appropriate for positive pressure baghouses. In addition, the petitioner claimed the EPA had not evaluated the costs associated with this application and estimated the cost to be comparable with BLDS for negative pressure baghouses. The petitioner also noted that the EPA's supplemental proposal did not require continuous baghouse monitoring for baghouses used to control fugitive emissions. However, the petitioner stated that the baghouses used to control fugitive emissions at their facility also control emissions from the furnace.

After considering the petition from Felman, and after gathering, reviewing, and evaluating additional information, the EPA is not proposing any changes to the requirement in the rule that baghouses be equipped with BLDS. The EPA continues to believe it is appropriate to require BLDS to monitor PM emissions from all furnace baghouses. However, we are seeking comments on this BLDS requirement and on the additional

---

<sup>3</sup> See EPA-HQ-OAR-2010-0895-0302.

information we are adding to the record, as described in the following paragraph.

We are providing additional supporting information on the use of BLDSs on positive pressure baghouses to the record. This includes technical articles<sup>4,5</sup> on the installation and operation of BLDS on positive pressure baghouses, and correspondence with manufacturers and installers with experience installing BLDS on positive pressure baghouses (see the Positive Pressure Baghouse Bag Leak Detection Information Memorandum which is available in the docket for this action). In addition, we have corresponded with facilities that have installed and operated BLDS on their positive pressure baghouses (see the Positive Pressure Baghouse Bag Leak Detection Information Memorandum which is available in the docket for this action). Based on this information, we have found no technical or economic basis for removing the BLDS requirement from the final rule. The monitoring requirement for furnace baghouses is intended to ensure continuous compliance with the PM standards in the final rule, which are surrogate standards for metal HAP emitted from the furnaces.

As mentioned previously, we are seeking comments on the

---

<sup>4</sup> Iron and Steel Technology, Practical Application of Broken Bag Detector Technology for Compliance and Maintenance: Under the Steelmaking Electric Arc Furnace New Source Performance Standards and the Iron and Foundry NESHAP, April 2005.

<sup>5</sup> Babcock & Wilcox, Fabric Filter Leak Detector Setup and Use, August 2014. Technical Paper BR-1920.

BLDS requirement along with data and other information to support such comments. If a commenter disagrees with our assessment regarding feasibility of BLDS on specific types of baghouses, we encourage such commenters to provide a detailed technical explanation and information to support such comments. Furthermore, in this case, we would also request the commenter to provide detailed suggestions as to what alternative monitoring actions could be implemented (instead of BLDS) to ensure continuous compliance with the PM standards.

#### **IV. Impacts of this Action**

##### A. Economic Impacts

The EPA does not expect any significant economic impacts as a result of this rule reconsideration. The rule provisions that are being reconsidered in this action were already included in the Economic Impact Analysis for the final rule. Changes to the final rule as a result of this reconsideration, if any, would likely result in lower economic costs and impacts rather than higher costs and impacts.

##### B. Environmental Impacts

The EPA does not expect any significant environmental impacts as a result of the reconsideration of the three rule provisions identified in this action, especially since the EPA is not proposing any changes to these provisions. The issues being reconsidered are monitoring and compliance testing issues

and, therefore, should not have any effect on the estimated emissions or emission reductions from what we estimated in the final rule.

## **V. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

### B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0676. This proposal document provides reconsideration of three issues raised by petitioners on the final rule, but does not make revisions to the requirements in the final rule. Therefore, this action does not change the information collection requirements previously finalized and, as a result, does not impose any additional burden on industry.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The agency has determined that neither of the companies affected by this proposed reconsideration document is considered to be a small entity.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. There are no ferroalloys production facilities that are owned or operated by tribal governments.

Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From  
Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The health risk assessments completed for the final rule are presented in the Residual Risk Assessment for the Ferroalloys Source Category in Support of the 2015 Final Rule document, which is available in the docket for this action (EPA-HQ-OAR-2010-0895-0281), and are discussed in section V.G of the preamble for the final rule (80 FR 37366).

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. In the final rule for this source category, the EPA decided to use ASTM D7520-13, Standard Test Method for Determining the Opacity in a Plume in an Outdoor Ambient Atmosphere, for measuring opacity from the shop buildings. This standard is an acceptable alternative to

EPA Method 9 and is available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959. See <http://www.astm.org/>. For this proposed reconsideration action, the EPA has agreed to reconsider the use of ASTM D7520-13 as the only method to be used to measure opacity from the shop buildings.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does **not** have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59FR 7629, February 16, 1994) because it does not affect the level of protection provided to human health or the environment. This action only includes reconsideration of certain issues of the final rule that will not affect the emission standards that were finalized on June 30, 2015.



**List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 30, 2016.

---

Gina McCarthy,

Administrator.

[FR Doc. 2016-16450 Filed: 7/11/2016 8:45 am; Publication Date: 7/12/2016]